

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

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SO. DIST. OF GA.

NOEL ARNOLD,

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Petitioner,

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v.

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CV 312-063

(formerly CR 310-012)

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UNITED STATES OF AMERICA,

*

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Respondent.

O R D E R

Presently before the Court is Petitioner Noel Arnold's "60(b) Motion," seeking reconsideration of this Court's dismissal of his motion brought under 28 U.S.C. § 2255. On March 25, 2013, this Court adopted the Report and Recommendation of the United States Magistrate Judge, which had determined that the § 2255 petition was barred by the collateral attack waiver in Arnold's plea agreement.

Upon review of the present motion, Arnold has failed to show the invalidity of the collateral attack waiver. Accordingly, his present claims, no matter how they are couched, are barred from review. Moreover, "Rule 60(b) was never intended to permit parties to relitigate the merits of claims or defenses, or to raise new claims or defenses that could have been asserted during the litigation of the case. Rather, the aim of Rule 60(b) [is] to allow a district court to grant relief

when its judgment rests upon a defective foundation." Gonzalez v. Sec'y for Dep't of Corr., 366 F.3d 1253, 1291-92 (11th Cir. 2004).

In this case, the Judgment rests on a sound legal principle-the collateral attack waiver. Accordingly, Petitioner Arnold's "Rule 60(b) Motion" (doc. no. 113) is **DENIED**. His motion to proceed in forma pauperis (doc. no. 114) is **DENIED AS MOOT**.

ORDER ENTERED at Augusta, Georgia, this 7th day of January, 2015.



UNITED STATES DISTRICT JUDGE